



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 20, 1996

Mr. Richard E. Buck  
Shafer, Davis, Ashley, O'Leary & Stoker  
P.O. Drawer 1552  
Odessa, Texas 79760-1552

OR96-1733

Dear Mr. Buck:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 30903.

The Odessa Junior College District (the "college district"), which you represent, has received a request for, among other things, information relating to the college district's budget. You object only to release of "all correspondence files between Odessa College and the Office of the State Auditor for the period July 1, 1994" to the date of the request. You contend that section 552.116 of the Government Code excepts this information from required public disclosure. As you do not comment on the remainder of the requested information, we presume that it has been or will be made available to the requestor. *See* Open Records Decision No. 363 (1983).

Section 552.116 of the Government Code excepts from required public disclosure "[a]n audit working paper of the state auditor." At issue here is whether audit materials transferred to a governmental body retain the same protection under section 552.116 which they have in the auditor's custody. The Office of the State Auditor has provided a brief supporting its contention that the submitted information constitutes "audit working papers" within the meaning of section 552.116. Having examined the information submitted to us for review, we agree that the submitted documents constitute "audit working papers." For the reasons discussed below, we conclude that the college district may withhold the submitted information in its entirety under section 552.116 of the Government Code.

Generally, the term "audit working paper" in section 552.116 is a term of art in the practice of accounting, referring to the documents containing the evidence supporting the auditor's findings, opinions, conclusions, and judgments. Open Records Decision No. 580 (1990) (construing statutory predecessor to section 552.116) (overruling Open Records Decision No. 164 (1977)). In Open Records Decision No. 211 (1978), this office declined to extend the applicability of section 552.116 to audit materials *generated and maintained* by the Criminal Justice Division of the Office of the Governor. In Open Records Decision No. 424 (1984), however, this office addressed the applicability of section 552.116 to audit materials *generated by the State Auditor but in the possession of the Texas House of Representatives*. In that decision, this office concluded that audit materials transferred to the House of Representatives retain the same protection under section 552.116 which they have in the auditor's custody, reasoning that "[i]nformation which is not required to be disclosed to the public under the Open Records Act may still be transferred between state agencies without destroying its protected status." *Id.* We believe that Open Records Decision No. 424 (1984) is controlling in this instance. Accordingly, we conclude that the audit materials transferred to or retained by the college district retain the same protection under section 552.116 which they have or would have in the auditor's custody.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Records Division

LRD/rho

Enclosures: Submitted documents

Ref.: ID# 30903

cc: Mr. Daniel Hollmann  
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